

contained in the FCC ETC Order where the Commission finds that those obligations would serve the public interest in Illinois.

As Staff witness Hoagg observed, “. . . [T]he Commission may find that, in some issue areas, imposing more stringent obligations than those of the FCC ETC Order would serve the public interest in Illinois. It is, of course, free to do so. I note that the ETC Order recognizes the unique knowledge and familiarity with local conditions possessed by state commissions.” (Staff Ex. 1.0 at 9)

IV. IVC’S PROPOSED ETC SERVICE AREAS

A. Introduction

IVC witness Mr. Kurtis provided testimony and exhibits describing and depicting the FCC-licensed service areas and the proposed ETC-designated service area of each of the three IVC partnerships. Each proposed ETC-designated service area generally follows the boundary of its respective FCC-licensed service area with modifications to make the proposed ETC-designated service areas consistent with FCC precedent.

In determining the areas to include within its proposed ETC designated service area where a rural telephone company wire center boundary was crossed by the boundary of the IVC Partnership, IVC modified its proposed ETC-designated service area to follow the LEC wire center boundary based on the FCC’s Virginia Cellular order, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338 (January 22, 2004) (“Virginia Cellular”) and Highland Cellular order, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004), (“Highland Cellular”). In the Highland Cellular order, the FCC held that a proposed ETC service area may not specify an area below the wire center level for a rural LEC. Highland Cellular at 733. Accordingly, where the IVC FCC-licensed CGSA boundary crossed a rural LEC wire center, IVC modified its proposed ETC service area to include only entire wire centers.

IVC Exhibit 2.1 for each Applicant shows the areas for which the three IVC Partnerships seek ETC designation. IVC Exhibit 2.2 for each Applicant shows the proposed ETC service area of the particular IVC Partnership superimposed over a map depicting the various wire centers for the ILECs providing traditional wireline telephone service in these areas. IVC Exhibit 2.3 for each entity lists the LEC wire centers that are within the proposed ETC designated service area of each IVC Partnership. (IVC draft order at 21-22)

B. IVC RSA 2-1 Proposed ETC Designated Service Area

The rural telephone companies, as defined by the Federal Act, with wire centers within the proposed ETC-designated service area of the IVC RSA 2-1 Partnership are Frontier Communications of DePue, Inc. (“Frontier-DePue”), Marseilles Telephone Co. of Marseilles (“Marseilles”), McNabb Telephone Company (“McNabb”), Tonica Telephone Company (“Tonica”), and Citizens Telecom Co. Illinois - Frontier Citizens-IL

("Citizens"). SBC Illinois and Verizon North Inc - IL ("Verizon-North") are the non-rural telephone companies with wire centers in the IVC RSA 2-1 proposed ETC designated service area.

Frontier-DePue and Marseilles have single wire center study areas that are located entirely within the boundaries of the IVC RSA 2-1 FCC licensed CGSA. Therefore, both of these wire centers were included in the IVC RSA 2-1 proposed ETC designated service area. Only a very small portion of the C-R Telephone Company Ransom wire center lies within the IVC RSA 2-1 CGSA. Therefore, IVC excluded that wire center from its proposed ETC service area.

McNabb and Tonica have single wire center study areas that are not located entirely within the boundaries of the IVC RSA 2-1 FCC licensed CGSA. The portions of the McNabb and Tonica wire centers that are within the IVC RSA 2-1 CGSA are significant. Therefore, both of these wire centers were included in the IVC RSA 2-1 proposed ETC-designated service area. The balance of the McNabb and Tonica wire centers are within the FCC-licensed CGSA area of the IVC RSA 2-1 Partnership.

In its *Virginia* Cellular Order, the FCC made it clear that where a wire center lies partially beyond a wireless ETC's FCC-licensed CGSA, its obligations as an ETC may be met by providing service in those areas through agreements with other wireless carriers. The 19 cell sites in IVC RSA 2-1 are operated in conjunction with the seven cell sites in the IVC RSA 2-11 market and the 13 cell sites in IVC RSA 2-111 as part of a single network. The areas of the McNabb and Tonica wire centers that lie beyond the IVC RSA 2-1 CGSA will be served through agreement with IVC RSA 2-11 using the consolidated IVC network.

Citizens has multiple wire centers, one of which, the Thomas ("Whiteside CO") wire center, is located entirely within the boundaries of the IVC RSA 2-1 FCC-licensed CGSA. Therefore, IVC RSA 2-1 included the Thomas (Whiteside CO) wire center in its proposed ETC-designated service area. The IVC RSA 2-1 FCC-licensed CGSA includes only very small portions of the Tampico and Hooppole wire centers of Citizens. Therefore, IVC RSA 2-1 excluded those two wire centers from its proposed ETC-designated service area.

IVC RSA 2-1 proposes to redefine the Citizens service area for ETC purposes of allowing IVC to include the entire Thomas (Whiteside CO) wire center in its ETC-designated service area. IVC is not seeking to redefine the study area for Citizens. Rather, IVC RSA 2-1 is seeking only to redefine the Citizens service area for purposes of designating itself as a competitive ETC in the one wire center as authorized by the FCC.

C. RSA 2-11 Proposed ETC Service Area

The rural telephone companies with wire centers within the IVC RSA 2-11 proposed ETC-designated service area are Leonore Mutual Telephone Co. ("Leonore"),

McNabb Telephone Company ("McNabb"), Tonica Telephone Company ("Tonica"), C-R Telephone Co. ("C-R"), Gallatin River Communications ("Gallatin"), and Mid-Century Telephone Cooperative ("Mid-Century"). Verizon North Inc ("Verizon-North") is the non-rural telephone company with wire centers in the IVC RSA 2-11 proposed ETC-designated service area.

Leonore has a single wire center study area located entirely within the boundaries of the IVC RSA 2-11 FCC licensed CGSA. Therefore, the Leonore wire center was included in the IVC RSA 2-11 proposed ETC-designated service area. The IVC RSA 2-11 FCC licensed CGSA includes a very small portion of the Frontier Communications of Prairie, Inc. ("Frontier-Prairie") Flanagan wire center. Therefore, IVC RSA 2-11 does not seek to include any portion of the Frontier-Prairie study area within the proposed ETC-designated service area.

McNabb and Tonica each have single wire center study areas that are not located entirely within the boundaries of the IVC RSA 2-11 FCC-licensed CGSA. The portions of the McNabb and Tonica wire centers that are within the IVC RSA 2-11 CGSA are significant. Therefore, these wire centers were included in the IVC RSA 2-11 proposed ETC-designated service area. The balance of the McNabb and Tonica wire centers lie within the FCC licensed CGSA area of IVC RSA 2-I.

As stated above, the cell sites of IVC RSA 2-1 and IVC RSA 2-11 are operated as part of a single network, and the FCC in its Virginia *Cellular* Order made it clear that where a wire center lies partially beyond a wireless ETC's FCC-licensed CGSA, it can meet its obligations as an ETC by providing service in those areas through agreements with other wireless carriers. Therefore the areas of the McNabb and Tonica wire centers that lie beyond the IVC RSA 2-11 CGSA will be served through agreement with IVC RSA 2-I.

Mr. Kurtis addressed the fact that IVC RSA 2-I and IVC RSA 2-11 are both seeking ETC designation for the McNabb and Tonica wire centers. He explained that USF support is based upon the number of subscribers an ETC carrier has, and that customers within the McNabb and Tonica wire centers receiving service on the consolidated IVC network will be designated as either an IVC RSA 2-1 or IVC 2-11 customer depending upon their billing addresses. Therefore only one of the IVC partnerships would be receiving USF support for any given customer, even though both partnerships would be designated as ETCs in that overlapping area.

C-R has a study area consisting of two wire centers, both of which are partially located within the boundaries of the IVC RSA 2-11 FCC-licensed CGSA. IVC RSA 2-11 proposes to include the entire study area of C-R, including both its Cornell and Ransom wire centers, within its ETC-designated service area. The portion of the C-R study area that is within the IVC RSA 2-11 FCC licensed CGSA is significant. All but a small portion of the C-R study area is within either the CGSA of IVC RSA 2-11 or one of the other IVC Partnerships, and as noted above, the cell sites of the three IVC Partnerships are

operated as a single CMRS network, collectively serving the area defined by the FCC as Illinois RSA 2.

The majority of the areas of the C-R wire centers that lie beyond the IVC RSA 2-II CGSA will be served through agreements with IVC RSA 2-1 and IVC RSA 2-III using the consolidated IVC network. For the very small portion of the Ransom wire center of C-R that is not within the CGSA of one of the three IVC Partnerships, IVC will provide service through roaming agreements, which IVC has in place with CMRS licensees serving that area or resale agreements.

Gallatin has multiple wire centers. One of those centers, the Lacon wire center, is located entirely within the boundaries of the IVC RSA 2-1 FCC-licensed CGSA. Therefore, IVC RSA 2-11 included the Lacon wire center in its proposed ETC-designated service area. IVC RSA 2-11 requests that the Gallatin service area be redefined to include only the Lacon wire center for purposes of the IVC RSA 2-11 ETC designation. Similarly, the majority of the Lafayette wire center of Mid-Century is within the FCC-licensed CGSA, but other Mid-Century wire centers are not within the CGSA. Therefore, IVC RSA 2-11 included the Mid-Century Lafayette wire center in its proposed ETC-designated service area, and it seeks to redefine the Mid-Century service area for purposes of the IVC RSA 2-11 ETC designation.

D. RSA 2-III Proposed ETC Service Area

The rural telephone companies within the IVC RSA 2-III Partnership proposed ETC-designated service area are Stelle Telephone Co. ("Stelle"), C-R Telephone Co. ("C-R"), Frontier Communications of Prairie, Inc. ("Frontier-Prairie"), Frontier Communications of Illinois, Inc. ("Frontier-Illinois"), and Verizon South, Inc.-IL ("Verizon-South"). SBC Illinois is a non-rural telephone company.

Stelle has a single wire center study area located entirely within the boundaries of the IVC RSA 2-III FCC-licensed CGSA. Therefore, the Stelle wire center was included in the IVC RSA 2-III proposed ETC-designated service area. The IVC RSA 2-III FCC-licensed CGSA includes a very small portion of the Gridley Telephone Company ("Gridley") single wire center study area. Therefore, IVC RSA 2-III does not seek to include the Gridley study area within its proposed ETC-designated service area.

C-R has a study area consisting of two wire centers, both of which are partially located within the boundaries of the IVC RSA 2-III FCC-licensed CGSA. IVC RSA 2-III proposes to include the entire study area of C-R, including both its Cornell and Ransom wire centers, within its ETC-designated service area. The portion of the C-R study area that is within the IVC RSA 2-III FCC-licensed CGSA is significant. The majority of the areas of the C-R wire centers that lie beyond the IVC RSA 2-III CGSA will be served through agreements with IVC RSA 2-1 and IVC RSA 2-11 using the consolidated IVC network.

For the very small portion of the Ransom wire center of C-R that is not within the CGSA of one of the three IVC Partnerships, IVC will provide service through roaming agreements, which IVC has in place with CMRS licensees serving that area, or through resale agreements,

With respect to the fact that IVC RSA 2-11 and IVC RSA 2-III are both seeking ETC designation for the C-R wire centers, USF support is based upon the number of subscribers an ETC carrier has. The customers within the C-R wire centers receiving service on the consolidated IVC network will be designated as either an IVC RSA 2-11 or IVC 2-III customer depending upon their billing addresses. Therefore, only one of the IVC partnerships would be receiving USF support for any given customer, even though both partnerships would be designated as ETCs in that overlapping area.

Frontier-Prairie has a study area consisting of two wire centers, which are the Flanagan and Graymont wire centers. The Graymont wire center is located entirely within the boundaries of the IVC RSA 2-11 FCC-licensed CGSA. The Flanagan wire center is located only partially within the IVC RSA 2-11 CGSA, but the portion so located is substantial. Therefore, IVC proposes to include the entire study area of Frontier-Prairie within its ETC-designated service area. The portion of the Flanagan wire center that is not within the IVC RSA 2-11 FCC-licensed CGSA is located within the IVC RSA 2-11 CGSA, and will be served through an agreement with IVC RSA 2-11 using the consolidated IVC network.

Frontier-Illinois has multiple wire centers located entirely within the boundaries of the IVC RSA 2-III FCC-licensed CGSA, those being the Cullom, Kempton and Saunemin wire centers. Therefore, IVC RSA 2-11 included these wire centers in its proposed ETC-designated service area. Verizon South has multiple wire centers located entirely within the boundaries of the IVC RSA 2-III FCC-licensed CGSA. Those are the Danforth, Cissna Park, Woodland, Milford, Stockland and Wellington wire centers. Therefore, IVC RSA 2-III included those wire centers in its proposed ETC designated service area.

IVC RSA 2-11 is licensed by the FCC to serve only a portion of the wire centers in the study areas of Frontier-Illinois and Verizon-South. IVC RSA 2-III's FCC-licensed service area encompasses the entire Danforth, Cissna Park, Woodland, Milford, Stockland and Wellington wire centers of Verizon South. IVC RSA 2-III proposes to redefine the Verizon-South service area to allow IVC RSA 2-11 to be designated as an ETC in only these wire centers. With respect to Frontier-Illinois, the IVC RSA 2-11 proposed ETC service area encompasses the entire Cullom, Kempton and Saunemin wire centers. IVC RSA 2-III proposes to redefine the Frontier-Illinois service area for ETC purposes.

E. Coverage in IVC Designated Service Areas

Evaluating IVC's current coverage in its designated service areas is relevant to this Commission's public interest determination. (IVC draft order at 28) IVC has

facilitated the review of its current coverage through the evidence it has presented in this docket.

IVC and IITA have presented somewhat conflicting evidence on the appropriate signal strength to use in the Commission's analysis of this issue. IITA takes the position that the appropriate signal strength level is -75 dBm. IVC takes the position that the appropriate floor below which a wireless handset would not operate with an acceptable level of quality is -95 dBm, and that the appropriate level for planning purposes in this case is -85 dBm. IVC draft order at 28.

In evaluating IVC's current service, IITA said the Commission should note that Section 245(b)(3) of the Act describes the purpose of universal service funding as providing access for all consumers -- including those in rural, insular and high-cost areas -- telecommunications services that are reasonably comparable to the rates and service available in urban areas. More specifically, Section 245(b)(3) provides in part:

(b) UNIVERSAL SERVICE PRINCIPLES.--The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

...

(3) ACCESS IN RURAL AND HIGH COST AREAS.--Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Having reviewed the record, the Commission is cognizant of the fact that there is no clearly established signal level to use as a benchmark for CMRS services "in urban areas" or elsewhere, and the Commission does not propose to set one in this proceeding. Nonetheless, in order to put the evaluation in context, the Commission notes that even accepting IITA's position that service in most urban areas is targeted at -75 dBm, and applying that "urban level" of service here, the evidence shows that IVC's coverage over most of its service areas is adequate.

Specifically, the coverage maps provided by IITA, as Attachment 1.15.3, 1.16.3, 1.17.3, 1.18.3 and 1.19.3 to IITA Ex. 1.0 in each docket, purport to show that the McNabb, Tonica, Cornell, Ransom and Stelle rural exchanges have approximately the following percentage of homes and area with an urban signal level or better.

Exchange	% households at -75 dBm or better	% area at -75 dBm or better
McNabb	100%	100%

Tonica	100%	100%
Cornell	69%	56%
Ransom	75%	55%
Stelle	99%	96%

IVC provided coverage maps for the other study areas at issue here showing coverage comparable to the foregoing. IVC Ex. 6.0 at Attachment 1B-4B.

It is also noted that IVC and IITA presented conflicting evidence on the existing and proposed future coverage of the LaFayette exchange of Mid-Century. IVC draft order at 29. The Commission makes no findings in this docket with respect to those issues.

V. EVIDENCE REGARDING ETC REQUIREMENTS

A. Requirement to Provide USF Supported Services

1. Evidence Presented

As noted above, Section 214(e)(1)(A) of the Federal Act provides that an ETC shall, throughout the designated service area, “offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier.”

Section 54.101(a) of the FCC’s rules, 47 CFR 54.101(a), identifies nine services and functions that are supported by federal universal support mechanisms and are to be offered by an ETC. IVC witness Thomas Walsh, who is the General Manager of the Network and Operating Partner of each of the three IVC Partnerships, presented testimony regarding the services provided by IVC as they relate to the nine supported services and functions.

The first function identified in Section 54.101(a) is **voice-grade access to the public switched network**. Under the FCC rules, voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hertz, within the 300 to 3000 Hertz frequency range. As an existing cellular service provider in Illinois, IVC provides voice-grade access to the public switched network.

Through interconnection with incumbent local exchange carriers, IVC is able to originate and terminate telephone service for all of its subscribers. **All** customers of IVC are able to place and receive calls on the public switched network within the specified bandwidth. IVC provides the foregoing service using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used to provide CMRS to its existing subscribers.

The second service is identified as local usage. The FCC has not quantified any minimum amount of local usage required to be included in a universal service offering. IVC's service includes local usage that allows customers to originate and terminate calls within the local calling area without incurring toll charges. The service allows for a bundle of local calling minutes for a flat-rated monthly charge. IVC currently offers several service plans that include varying amounts of local usage.

IVC proposed a number of new service plans in this proceeding in connection with its request for ETC designation. These plans include two ILEC-Equivalent plans with discounted rates and unlimited in-bound and out-bound local usage within a more limited calling scope equivalent to the calling scope offered by the incumbent local exchange carriers who operate in IVC's proposed ETC-designated service area.

ICC Staff witness Mark Hanson testified that an ETC applicant, like IVC, must offer rate plans and local usage comparable to the service plans offered by the incumbent LEC in the area. He initially proposed an analysis to determine the appropriate rates and levels of local usage to be deemed comparable to the rates and levels of local usage offered by the incumbent LECs in IVC's proposed ETC-designated service area.

ITA witness Mr. Schoonmaker also suggested that designation of IVC as an ETC would not be in the public interest unless its service plans have rates comparable to those of the incumbent LECs.

IVC presented a series of rate analyses comparing its existing and proposed rate plans and local usage offerings to those of each incumbent LEC in the proposed ETC designated service area as IVC Exhibits 5.1, 5.2 and 5.3. These analyses purport to show that IVC's existing and proposed rate plans and local usage offerings compare favorably to those of the incumbent LECs. Mr. Walsh also testified out that IVC's rate plans compare favorably to the \$20.39 "affordable rate" that the Commission set for Illinois' small, rural telephone companies for Illinois Universal Service Fund purposes in ICC Docket Nos. 00-0233/00-0335 Consolidated, and to the 400 minutes of local usage that was assumed in setting the affordable rate.

Following IVC's indication of its intent to offer two local service offerings identified as "ILEC Equivalent Plans", both Mr. Hanson and Mr. Schoonmaker agreed that these proposed IVC service plans compare favorably to those of the incumbent LECs in each of the ILEC study areas and would bring benefits to Illinois consumers from lower prices if IVC's ETC applications were granted. Both suggested that the offering of the ILEC Equivalent Plans be made a condition of the order designating the three IVC Partnerships as ETCs. IVC has agreed to the inclusion of this condition.

The third service is Dual Tone Multi-frequency Signaling or its Functional Equivalent. Dual tone multi-frequency signaling ("DTMF") is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to

provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.

IVC currently uses out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling. IVC draft order at 32. Staff offered no evidence or argument in opposition to IVC's evidence regarding this supported service.

The fourth service is "single-party service", which means that only one party will be served by a subscriber loop or access line, in contrast to a multi-party line. The FCC has concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission.

IVC provides a dedicated message path for the length of all customer calls. Staff provided no evidence or argument in opposition to IVC's evidence regarding this supported service.

The fifth supported service is access **to** emergency service through the dialing of "9-1-1." The ability to reach a public emergency service provider through dialing 9-1-1 is a required universal service offering. IVC has coordinated 9-1-1 call routing with the local emergency officials and the Illinois State Police. IVC customers can reach an emergency dispatch, or public safety answering point ("PSAP"), by dialing "9-1-1," which will route the call to the appropriate PSAP.

IVC states that enhanced 9-1-1 ("E9-1-1"), which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is required only if a public emergency service provider makes arrangements with the local provider for delivery of such information. Mr. Walsh testified that IVC routes 9-1-1 calls for anyone dialing 9-1-1 on the IVC network whether they are an IVC customer, a valid roamer or even a caller not otherwise considered to be a valid user of any cellular network.

The FCC, public safety officials and the wireless industry have been working to enhance this basic 9-1-1 call routing. The enhanced or E9-1-1 service was rolled out in two phases. Phase I provides the PSAP with the location of the cell site on which the call originated as well as the call-back telephone number of the handset used to place the call. Phase II E9-1-1 service provides the PSAP with the same information as the Phase I service, except that instead of providing the location of the cell site on which the call was placed, Phase II service provides the actual location of the handset that placed the call.

The IVC network pinpoints the location of the handset by using the satellite-based locating technology ("GPS") much the way that car-based navigational systems can plot the location of a vehicle. Handsets equipped with GPS receivers transmit information received from the GPS satellites to the IVC network which processes that raw data and calculates the geographic location of the handset. This locational

information is then forwarded on to the PSAP. Virtually all handsets currently being sold by IVC and most other CDMA-based service providers nation-wide are GPS-capable. FCC rules require that these types of systems be able to provide locational information accurate to within 150 meters for 95% of the calls and 50 meters for 67% of the calls. The IVC network is capable of meeting these requirements and transmitting the data to the PSAP.

IVC's network is capable of providing Phase I and Phase II E9-1-1 services as a function of the capabilities of each PSAP throughout the IVC service area. However, the PSAP must have the technological capability to receive and process the data that the IVC system is sending. Mr. Walsh identified the PSAPs within the proposed ETC designated area that have the technical capability to receive Basic 9-1-1 service, Phase I E9-1-1 and Phase II E9-1-1 service. Mr. Walsh also testified that for areas where no PSAP is assigned to handle emergency calls from an IVC radio tower, IVC has made arrangements to route all such 9-1-1 calls to the Illinois State Police.

ICC Staff witness Marci Schroll initially raised an issue about whether IVC was in compliance with the Illinois wireless 9-1-1 statute and rules, and whether IVC would commit to continue to comply with future amendments to the Illinois wireless 9-1-1 statute and rules.

In response, Mr. Walsh testified that IVC is in compliance with Illinois wireless 9-1-1 statutes and rules. IVC has also committed to comply with future amendments to the Illinois 9-1-1 statute and rules, with one caveat. IVC does not believe it is appropriate to commit to comply with a future amendment to the Illinois 9-1-1 statute or rules if compliance with that amendment would cause IVC to violate the Federal 9-1-1 statute and rules or if the Illinois statute or rule are found by a court or other body of competent jurisdiction to be preempted by the Federal 9-1-1 statute or rules. IVC also committed to notify the ICC if an actual conflict arises in the future between federal and Illinois law on wireless 9-1-1 service due to a change in either the Illinois or Federal law.

In her final testimony, Ms. Schroll indicated that the IVC commitments are acceptable.

The sixth USF supported service is access to operator services, defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.

IVC currently offers its subscribers access to operator services for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third party calls. Customers may also obtain related information throughout IVC's requested designated ETC service area. Staff offered no opposition to IVC's evidence regarding this supported service. (IVC draft order at 35)

The seventh supported service is access to interexchange service. An ETC providing universal service must offer consumers access to interexchange service to

Place or receive toll or interexchange calls. Interexchange service access entails access to live or automatic operator assistance for the placement and billing of telephone calls, including collect calls, calling card calls, credit card calls, person-to-person calls, and third-party calls, as well as obtaining related information.

IVC has direct interconnection to multiple access tandems for delivering traffic to all offices subtending those tandems as well as direct interconnection to local exchange carrier end offices where traffic levels so justify. In addition, IVC provides indirect access to one or more interexchange carriers ("IXC"), for access to any other exchanges. **As** a result, IVC provides all of its customers with the ability to make and receive interexchange or toll calls through the interconnection arrangements it has with its IXCs.

Staff advanced no position in opposition to IVC's evidence regarding this supported service.

The eighth service is **access to directory service**. The ability to place a call to directory assistance is a required service offering of an ETC. IVC provides all of its customers with access to information contained in directory listings by dialing "4-1-1" or "555-1212." Staff provided no position in opposition to IVC's evidence regarding this supported service.

The ninth supported service is **Toll Limitation for Qualifying Low-Income Customers** (Lifeline and Link-Up Services). Under FCC Rules, ETCs must offer "Toll Limitation," a term the FCC has defined to include either "Toll Blocking" or Toll Control, but it does not at this time require both, to qualifying Lifeline and Link-Up universal service customers at no charge.

Toll Blocking allows customers to block the completion of outgoing toll calls. Toll Control allows the customer to limit the dollar amount of toll charges a subscriber can incur during a billing period. If enrolled in the Federal Lifeline or Link-Up programs, a customer may choose to have IVC block all attempted toll calls originating from the customer's phone.

Mr. Walsh testified that IVC does not currently offer Lifeline or Link-Up services, but it has committed to do so. The IVC network is capable of providing Toll Blocking services. Currently, IVC provides Toll Blocking services for international calls. Mr. Walsh made a commitment on behalf of IVC to utilize the same Toll Blocking technology to provide toll limitation for qualifying low-income customers, at no charge, as part of its universal service offerings.

2. Commission Conclusion

As noted above, the FCC has identified nine services and functions that are supported by federal universal support mechanisms and are to be offered by an ETC.

Evidence regarding IVC's willingness and ability to provide these services is summarized above.

In response to concerns raised by Staff and other parties, IVC has agreed to a number of conditions and commitments in this proceeding, as identified in this Order and in the record. Subject to and in reliance on all such conditions and commitments, wherever they may appear, the Commission finds that IVC has made a commitment to offer, and does have or will have the capability to provide, each of the nine supported services in each of the study areas for which it seeks ETC status using either its own facilities or a combination of its own facilities and another carrier's services.

B. Advertising of Availability of Services

As noted above, Section 214(e)(1)(B) of the Federal Act of 1996 provides that an ETC shall, throughout the designated service area, "advertise the availability of such services and the charges therefor using media of general distribution."

IVC witness Mr. Walsh testified that IVC currently advertises the availability of its services, and he made a commitment on behalf of IVC to advertise to the public, in IVC's ETC-designated area, the offering by ITC of the supported universal services and the charges therefor. Mr. Walsh identified a number of local newspapers of general circulation in the ETC-designated area where IVC advertises weekly, and a number of local radio stations on which IVC runs advertisements.

None of the parties or the ICC Staff questioned IVC's evidence that it will advertise the availability of the supported universal services.

With regard to the advertising of the availability of lifeline and link-up services, Mr. Walsh described two reduced-price Lifeline Plans that IVC would offer to Lifeline-eligible subscribers. Under these plans, the customers would be allowed to presubscribe to an IXC of their choosing. As an alternative to those two plans, IVC would offer Lifeline-eligible subscribers a discount off the standard monthly rates for any of its other rate plans.

Mr. Walsh also described the discount that IVC would offer Link-Up eligible subscribers with respect to activation fees and a deferred payment schedule that would be made available for such eligible subscribers.

Mr. Walsh made a commitment on behalf of IVC to advertise the availability of Lifeline and Link-Up services. In addition to the standard forms of advertising identified above for its existing services, IVC would disseminate information regarding its Lifeline and Link-Up services to potential customers of those services by disseminating information in locations such as unemployment and welfare offices within the ETC-designated area.

None of the parties or Staff questioned IVC's evidence that it will advertise the availability of the supported universal services. Staff found IVC's commitments to be satisfactory, and recommended that they be included as a condition of granting ETC to IVC.

The Commission has reviewed the record on these issues. With respect to advertising the availability of the supported services within the meaning of Section 214(e)(1)(B) of the 1996 Act, the Commission finds that IVC has shown that it will "advertise the availability of such services and the charges therefor using media of general distribution."

With regard to lifeline service, the Commission concludes that IVC has demonstrated that it satisfies the requirement of CFR §54.405 to make available lifeline service, as defined in §54.401, to qualifying low-income consumers, and to publicize the availability of such service in a manner reasonably designed to reach those likely to qualify for the service.

The Commission also concludes that IVC has demonstrated that it satisfies the requirement of CFR §54.411 to make Link-Up services available as part of its obligation set forth in CFR §54.101(a)(9) and 54.101(b).

Finally, the Commission concludes that the commitments made by IVC on the above issues shall be added to the list of conditions being imposed in this Order.

C. Commitment to Provide Service throughout ETC-Designated Area

As noted above, under FCC guidelines, an ETC Applicant must commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. FCC ETC Order at Para 22; 47 CFR §54.202(a)(1)(i).

IVC presented evidence of its ability and commitment to provide service throughout its proposed ETC-designated service area to all customers who make a reasonable request for service. IVC asserts that the evidence of its existing system and services, its proposed expansion plans and its financial statements, IVC Proprietary Exhibits 5.7, 5.8 and 5.9, demonstrate IVC's ability to provide service throughout the proposed ETC-designated area.

In its Report and Order the FCC stated, "In addition, we encourage states to follow the Joint Board's proposal that any build-out commitments adopted by states be harmonized with any existing policies regarding line extensions and carrier of last resort obligations."

Consistent with that principle, Staff witness Mr. Hoagg testified, "Section 214(e) effectively conveys the following message: once you're in, you can't simply opt out, as in a competitive market devoid of universal service support." The CLEC or a wireless

carrier seeking ETC designation should show that they can provide the designated services and otherwise meet the minimum standards set forth in the FCC's ETC Order and other requirements determined by the Commission to provide for the public interest.

Through Mr. Walsh, IVC made a commitment to provide service throughout its designated service area to all customers who make a reasonable request for service using the standard in paragraph 22 of the FCC's ETC Order. He stated that if IVC's network already passes or covers the potential customer's premises, IVC will provide service immediately.

For those instances where a request comes from a potential customer within IVC's licensed service area but outside its existing network coverage or where signal strength is weak, IVC will provide service within a reasonable period of time if service can be provided at a reasonable cost utilizing one or more of the following methods: (1) modifying or replacing the requesting customer's equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carrier's facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment.

Finally, Mr. Walsh stated that if IVC determines that it cannot serve the customer using one or more of these methods, then IVC will report the unfulfilled request to the Commission within 30 days after making such determination. (IVC draft order at 39)

Having reviewed the record, the Commission concludes that IVC presented sufficient evidence demonstrating its ability to provide service throughout its proposed ETC-designated service area to all customers who make a reasonable request for service, and to potential customers located within its service area but outside its existing network coverage. In addition, the Commission accepts the commitment IVC has made to provide service in compliance with the standards set forth in the FCC's ETC order and 47 CFR 54.202.

D. Five-Year Network Improvement Plan

1. Introduction

As explained above, under FCC guidelines, an ETC Applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. ETC Order at Para 23; 47 CFR §54.202(a)(1)(ii). The parties suggest, for purposes of this proceeding, that those guidelines be applied in assessing IVC's request for ETC designation in this order.

Staff witness Mr. Hoagg testified that a five-year investment plan as called for by the FCC's ETC Order, or an acceptable alternative, is "an essential bedrock requirement for ETC designation for any new entrant" in order to achieve "better

targeting” of USF. This information provides state commissions with detailed specific information to perform its public interest analysis. As further discussed by Mr. Hoagg, the essence of the five-year plan is to ensure that support received by a “newly designated ETC is invested to upgrade, improve or extend facilities in ways that will directly benefit customers” in order “to achieve better ‘targeting’ of universal service support.” Staff Ex. 1.0 at 11-12.

Generally, the FCC suggested that the five-year network improvement plan specifically describe proposed improvements or upgrades “on a wire center-by-wire center basis throughout its designated service area.” Also, the FCC implicitly invited state commissions to develop their own approach when the FCC rejected suggestions for uniformity and instead stated that its approach accounts for “unique circumstances” and “allows consideration of fact-specific circumstances of the carrier and the designated service area.” FCC ETC Order at Para 23-24.

2. Evidence Presented

IVC presented evidence describing how it will use universal service support to improve service within the service areas for which it seeks designation as part of its five-year network improvement plan. The broader network improvement plan presented by IVC, which was part of testimony that was pre-filed prior to the issuance of the FCC’s ETC Order, included the construction, maintenance and operation of a total of 19 new cell towers within the proposed ETC-designated service area. IVC presented diagrams comparing the existing coverage area to the coverage area that would result at the conclusion of the network improvement plan. IVC Ex. 6.0, Attachments 4A and 6.

The new cell towers to be constructed under the network improvement plan were divided into two groups for each of the three IVC partnerships. The first group consists of cell sites IVC believes can be justified economically, and which it intends to construct from existing cash flows and revenues, even without USF support. The second group consists of cell sites that IVC does not believe would be justified economically but which it would construct using USF support if the three IVC partnerships are designated as ETCs. IVC presented proprietary Exhibits 5.4, 5.5 and 5.6 showing the cost analysis used to differentiate between the “USF cell sites” and the “non-USF cell sites.”

While the case was pending, IVC constructed three of the non-USF cell sites, one in each of the three IVC partnerships’ service areas. Excluding the three new cell sites constructed during the pendency of this proceeding, the network improvement plan includes nine new cell sites for IVC RSA 2-I, three of which are designated for construction only with USF support, four new cell sites for IVC RSA 2-II, three of which are designated for construction only with USF support, and three new cell sites for IVC RSA 2-III, two of which are designated for construction only with USF support. The location for each proposed new cell site was set forth in proprietary IVC Exhibits 1.5.

IVC presented the projected capital and operating costs associated with each proposed new cell tower in proprietary IVC Exhibit 4.1 for each RSA. For each RSA,

IVC also presented Proprietary IVC Exhibit 3.1, which showed (1) each individual wire center within IVC's proposed ETC designated area that would receive capacity enhancement from each new cell tower, and (2) the population that would be covered by each new cell tower. The notes at the end of proprietary Exhibits 3.1 identify the number of wire centers that would not receive service enhancement from the new cell towers. The individual wire centers within the IVC proposed ETC-designated area that would not receive service enhancement from the new cell towers can be identified by comparing the wire center lists in the proprietary Exhibit 3.1s with the wire center lists in IVC Exhibits 2.3.

The record also contains evidence showing the projected construction start date and in service date for the USF cell towers (Staff Exhibit 6.0, Attachment A Proprietary), the projected amount of USF support that each IVC Partnership expected to receive (IITA Exhibit 1.0, Attachment 1.4), and the projected expenditure of USF support in connection with the construction, maintenance and operation of the proposed new USF towers over the next five years (Staff Exhibit 6.0, Attachment A Proprietary).

While IVC's five-year network improvement plan does not call for a cell tower to be constructed in each wire center within the proposed ETC-designated area, IVC witness Mr. Walsh testified that there is not a need for service improvements in wire centers where the existing cell towers are providing sufficient signal strength. In paragraph 23 of its ETC Order, the FCC stated:

To demonstrate that supported improvements in service will be made throughout the service area, applicants should provide this information for each wire center in each service area for which they expect to receive universal service support, or an explanation of why service improvements in a particular wire center are not needed and how funding will otherwise be used to further the provision of supported services in that area. We clarify that service quality improvements in the five-year plan do not necessarily require additional construction of network facilities.

Mr. Walsh testified that most of the wire centers that will not receive service enhancement from the proposed new cell towers do not yet require network enhancement because IVC's existing cell towers are providing sufficient signal strength. Some of these wire centers have existing cell towers in them already, and others are in close proximity to other wire centers that have existing cell towers. He said this proximity benefit is one of the technological differences between wireless service and landline service. A single cell site can provide service to multiple wire centers, unlike landline service where facilities must actually be constructed in the wire center to be of any benefit to the wire center. IVC draft order at 43.

IVC has placed into service 39 cell towers throughout its proposed ETC service area, but it does not have a cell tower in each wire center in its service area. IVC has committed to construct 16 new cell towers during the next five years. Even with these additional 16 cell towers, IVC will not have a cell tower in each wire center in its service

area. There are 115 wire centers in the proposed ETC designated area. The list of wire centers for each of the three IVC Partnerships is shown in the respective IVC Exhibits 2.3. There are 11 additional wire centers that are partially within IVC's combined FCC-licensed service area, but which IVC eliminated from its proposed ETC-designated area.

Exchange	Adequately served by tower(s) in:	Could Benefit from Signal Enhancement
Caberv		✓
Campus		✓
Colfax	Gibson City	
Cropsey	North Fairbury	
Elliott	Gibson City	
Emington		✓
	City/Gillman	
Reddick	Dwight	
Sibley	Melvin/Gibson City	
Strawn	Forrest	

Dwight	Dwight	
Gardner	Dwight	
Gibson City	Gibson City	
Hopkins Park-Momence		✓
Cullom	Piper	
Kempton		✓

Mr. Walsh stated that cell towers that would benefit these areas were not included in the five-year plan because there simply are not sufficient USF funds to enable IVC to provide network enhancements to all wire centers during the initial five years of USF support.

The level of USF support that IVC can draw is not based upon IVC's cost of service, but rather is limited to the level of per-line support received by the underlying ILEC. He said the analysis of the eight proposed USF cell towers to be constructed and placed in service during the first five-year network enhancement plan shows that 100% of the anticipated USF support will be expended on these USF cell towers. Mr. Walsh testified that future enhancements for these areas and others will come in the form of capacity expansions or new cell towers in subsequent five-year network enhancement plans.

ICC Staff and IITA initially questioned whether IVC had provided all the required information in connection with its five-year plan. Following the submission of supplemental information by IVC, including the USF spending analysis, the ICC Staff no longer questions the sufficiency of IVC's five-year network improvement plan; however, IITA continues to question whether IVC's five-year plan sufficiently addresses the wire center-by-wire center language in the FCC's ETC Order.

In summary, as part of its five-year plan, IVC committed to place 16 new cell towers, eight of which are dependent on USF funding, that would improve the service to 96 out of 115 wire centers covered by its proposed ETC designation. This would leave 19 exchanges not benefited by the towers built under the five-year plan. Of these, IVC asserts, 14 already receive adequate signal coverage from existing towers.

3. Commission Conclusion

Under FCC guidelines, an ETC Applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. The parties suggest, and the Commission agrees, that for purposes of this proceeding, those guidelines should be applied in assessing IVC's request for ETC designation in this order.

IVC provided a five-year plan describing proposed improvements to its network on a wire center-by-wire center basis. IVC's plan describes the construction of 16 new cell towers during the next five years. IVC's application included diagrams showing the specific geographic areas impacted by the improvements.

IVC also provided projected start and completion dates for each improvement and cost estimates of the investment in those projects that would use funds from high-cost support. IVC's five-year plan demonstrates how high-cost support will be used for service improvements that would not occur absent receipt of such support. Overall, IVC demonstrated that signal quality in 96 of its 115 wire centers would benefit from the new cell towers.

Of the 19 wire centers that will not benefit from the new construction, IVC provided an adequate explanation of why 14 of those do not require system improvements at this time. IVC also adequately explained why the USF funds they expect to collect will not be sufficient to support upgrades of the under-served wire centers as part of the five-year plan. In addition, the Commission requires that any surplus universal service funds received shall be directed first to those under-served study areas, and that all of the non-benefiting wire centers will receive priority for additional build-out in subsequent five-year plans.

E. Ability to Remain Functional in Emergency Situations

As explained above, under FCC guidelines, an ETC Applicant must demonstrate its ability to remain functional in emergency situations. 47 CFR §54.202(a)(2); FCC ETC Order at Para 25.

IVC has presented evidence intended to demonstrate that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. Mr. Walsh testified that IVC's mobile switching office and each of the IVC cell sites is fully redundant: they have battery back-up plants and either emergency generators with automatic transfer switches or receptacles and manual transfer switches which enable a portable generator to plugged in to recharge the battery plants.

He also testified that the entire consolidated IVC network is monitored to check for proper operations at all times. The redundant network design allows the system to avoid most customer-affecting service outages since, in the event of a failure, the redundant facilities are designed to automatically take over primary operation and an alarm is sounded at the mobile switching office. IVC has an alarm system that automatically notifies a remote monitoring center of the outage and the service technicians during after-hours emergencies. IVC has technicians on call 24 hours per day and 7 days a week. IVC also stocks a full complement of spare parts for all network components.

IITA witness Mr. Schoonmaker presented testimony initially questioning, among other things, IVC's lack of evidence addressing its ability to reroute traffic around damaged facilities and its capability to manage traffic spikes.

IVC witness Mr. Kurtis addressed these matters in his rebuttal testimony. IVC draft order at 47-48. He testified that each cell site provides radio coverage to a fixed geographic service area, that these service areas have a high degree of overlapping coverage, and that the overlapping coverage allows IVC to manage peak demand loads as well as providing a level of redundancy not found in the context of the traditional landline local loop.

Mr. Kurtis also said there is no place in the IVC network where a cell site lacks at least some degree of overlap with another cell site. Therefore, even in the case where an unusual demand appears at a location where there is only one cell capable of providing coverage, the IVC network has the ability to shed the traffic being carried by the heavily-used cell site in the areas where there is cell overlap. That way, the cell site experiencing unusual demand can devote all of its capacity to the area where there is no overlap. Mr. Kurtis testified that the IVC network is configured to perform this "load shedding" function automatically, and he described in detail the process that the network performs to monitor, manage and shed traffic.

Mr. Kurtis stated that the cell coverage overlap and redundancy allow IVC to reroute traffic around damaged facilities. With the CDMA technology, a call in progress in an area of overlap between cell sites is typically handled by more than one cell site even when the mobile unit is stationary. This is commonly referred to as "soft" handoff. The call is simultaneously "taking place" through multiple cell sites. In this situation, the loss of signal from any one cell does not drop the call. Similarly, Mr. Kurtis testified that in the rare event of a cell site outage, the subscriber can still receive service from any other cell capable of providing service to the location where the subscriber is located.

In his direct testimony, Staff witness Mr. McClerren raised a question about whether IVC is meeting or is willing to meet the requirements of Sections 730.325 and 730.550 of the Commission's rules regarding emergency power requirements for central offices and requirements to notify the Commission of a central office failure or isolation of an exchange due to toll circuit failure. 83 Ill. Adm. Code 730.

In response, regarding Section 730.325, Mr. Walsh testified that the IVC mobile telephone switching office, which is the functional equivalent to an ILEC central office, has a battery backup plant and a permanently installed emergency power generator sufficient to meet the requirements of this code section. He said IVC also maintains sufficient fuel stores, sufficiently exercises the generator, and has the requisite test records to meet the requirements of this code section. Mr. Walsh also committed on behalf of IVC to provide the ICC with the notification specified in Section 730.550 and to otherwise meet the requirements of this code section.

In rebuttal testimony, Mr. McClerren stated, based on IVC's responses, that the Section 730.325 and 730.550 issues are resolved,

Based on the record as summarized above, including the commitments made by IVC, the Commission finds that IVC has demonstrated its ability to remain functional in emergency situations.

F. Consumer Protection and Service Quality Standards

1. Introduction

Under FCC guidelines, an ETC Applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. 47 CFR §54.202(a)(3); FCC ETC Order at Para 28.

The FCC indicated in paragraph 28 of its ETC Order and in prior orders that a commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service would satisfy the FCC's review of this requirement for a wireless ETC applicant. In this proceeding, IVC has made a commitment to comply with the provisions of that Code. IVC has also committed to report information on consumer complaints per 1,000 handsets on an annual basis consistent with what would be required if IVC's applications were pending before the FCC. IVC draft order at 48-49.

Mr. Walsh also provided evidence about IVC's customer service practices and its track record in meeting the expectations of its wireless customers. He also described the customer care programs IVC has implemented. IVC and its authorized agents have more than 40 points of presence throughout the area served by the consolidated IVC network. Several of the IVC retail outlets, as well as the IVC agent locations, have extended service hours including evenings and weekends. An IVC customer can go to any of these 40 locations to activate service or to receive assistance if they are encountering problems with their mobile handset or their wireless service.

When the problem is with the customer's handset, IVC provides the customer with a free loaner phone that the customer may use until the handset can be repaired or replaced. An IVC customer can drop their phone off for service and pick up the free loaner at any of these 40 locations. In addition, IVC operates seven service vans that can be dispatched to a customer location to provide repair or replacement service in the field. IVC staffs its trouble lines with live service operators to give the customer "someone to talk to" during normal business hours. IVC draft order at 50.

Mr. Walsh said the best indication that a business in a competitive industry is providing quality service is longevity and continued growth of its customer base. He testified that IVC began providing wireless telecommunications service in 1992, that its number of customers has grown significantly, and that its customer retention rate is in

the top 5% of the nation. In his opinion, these facts show that IVC subscribers are receiving adequate telecommunications services.

2. Staff and IITA

In its ETC Order, paragraph 31, the FCC stated that Section 332(c)(3) specifically allows states to regulate CMRS terms and conditions, not dealing with rates and entry, in order to preserve and advance universal service. Further, the FCC encouraged states to consider consumer protection in the wireless context as a prerequisite for obtaining ETC designation from the state. The FCC invited state commissions either to use the FCC's framework or to impose their own requirements to ensure consumer protection and service quality.

Staff witness Mr. McClerren testified that there must be enough service quality and consumer protections in a wireless ETC designation to assure the ICC that Illinois consumers will have adequate telecommunication services. IVC draft order at 50.

In that context, Mr. McClerren evaluated the advantages and disadvantages of IVC's services. He recommended that IVC be required to meet additional consumer protection and service quality standards, and that IVC agree to comply with a number of sections of the ICC's rules in Code Parts 730 and 735 that are applicable to landline carriers in Illinois.

Specifically, Mr. McClerren requested that IVC indicate whether it is presently complying with, would be willing to make changes as required to comply with, or would be unable or unwilling to comply with the requirements of the following sections of Code Parts 730 and 735: Sections 735.70, 735.80, 735.100, 735.120, 735.130, 735.140, 735.150, 735.160, 735.170, 735.180, 735.190, 735.200, 735.220 and 735.230 of Code Part 735; and Sections 730.115, 730.305, 730.340, 730.400, 730.405, 730.410, 730.415, 730.420, 730.425, 730.430, 730.435, 730.440, 730.445, 730.450, 730.500, 730.510, 730.520, 730.535, 730.540 and 730.545 of Code Part 730.

He also testified that it would be appropriate to establish standards for wireless ETCs with respect to dropped calls and weak signal.

IITA witness Mr. Schoonmaker also testified that IVC should commit to meeting these sections of Code Parts 730 and 735 and/or that standards for dropped calls and weak signal be established for wireless ETCs.

Mr. McClerren responded to IVC witness Walsh's position that the best indication that a business in a competitive industry is providing quality service is longevity and continued growth of its customer base. In his rebuttal testimony, Mr. McClerren stated that if wireline and cellular technologies were identical, with the same operating characteristics and industry practices, then Staff would be much more inclined to endorse Mr. Walsh's position about the importance of longevity and growth of customer

base to service quality assessment. However, it is clear that wireline and cellular technologies are not identical, nor are the practices of the two industries identical.

In Mr. McClerren's view, the ability to substitute cellular service for wireline service is central to this proceeding. The fact that IVC is successful as a cellular company is not at issue. Rather, the Commission must assess if Illinois customers will receive adequate telecommunications service through IVC's cellular facilities, as they are accustomed to receiving through wireline facilities. Given that Code Parts 730 and 735 define telecommunications service in Illinois, it is Staff's position that IVC must demonstrate its ability and willingness to comply with those Code Parts. Staff Ex. 7.0 at 19-22.

In addition, Staff witness McClerren commented on the advantages and disadvantages of IVC's cellular service relative to wireline service. Regarding advantages, the mobility provided by a cellular phone is useful to telephone customers. With cellular service, the customer is able to place and receive telephone calls without having to be in a single fixed location. Having CPE, or handsets, provided by the cellular company is also an advantage over wireline service. The cost of the handset is factored into the rates, so the customer does not have to purchase a telephone separately.

Also, if the handset is not operating properly, IVC will either fix the handset at its customer centers or provide a loaner phone while it is being fixed. Mr. McClerren said another advantage of cellular service is that timeliness of installation is inherently superior to wireline service. If a customer wants telephone service from a cellular provider, the service will frequently be provided, or "activated", in a matter of minutes. A wireline provider may need days to install service. *Id.*

Mr. McClerren also addressed Staff's concerns regarding the disadvantages of IVC's cellular service relative to wireline service, including the lack of a directory or telephone listing could limit the access the cellular customer has to the network. To the extent the customer accepts the service contract with the full understanding that they will not receive a directory, that their number will be unlisted, and that the customer's knowledge of those facts is documented, Mr. McClerren's concern is greatly alleviated.

Mr. McClerren also testified that the quality of a cellular call relative to a wireline call has not been adequately addressed in this proceeding. Call quality may be manifested in clarity, signal strength, or dropped calls. To some extent, this concern is reduced by the willingness of IVC to allow customers to effectively try out their cellular service for 30 days under their trial period for new service. Presumably, the customer will be able to take a cellular phone home, and if it is unsatisfactory, IVC will not impose an early termination fee for service cancellation. However, it remains unclear whether dropped calls will be identified as an issue during the trial period, and whether signal strengths at a location may vary during different parts of the year.

Another significant disadvantage of cellular service relative to wireline service is contract term. Effectively, other than the trial period of 30 days, customers are contractually locked into a longer term, such as 12 months or longer. If the customer terminates service with IVC prior to expiration of the 12-month contract term, there may be a significant financial penalty.

IVC suggests the term is required to guarantee payment for the handset; however, the fact remains that if, for example, a person has to move after six months of cellular service, there may be a substantial penalty for that cellular customer. Wireline customers would not have a similar penalty under the same scenario. In its rebuttal testimony, Mr. McClerren recommended that this issue be addressed in a future rulemaking regarding ETCs.

3. Rebuttal Testimony

In his rebuttal testimony, Mr. Walsh addressed the Code Part sections discussed by Mr. McClerren. For those sections that do not fit well with competitive wireless service, and with respect to dropped calls and weak signals, Mr. Walsh and Mr. Kurtis suggested that a rulemaking should be conducted to address the appropriate standards for wireless ETCs in Illinois. Mr. Walsh committed on behalf of IVC to participate in such a rulemaking, including related workshops with the ICC Staff and industry participants.

Mr. McClerren and Mr. Schoonmaker agreed in their rebuttal testimonies that a rulemaking to establish standards for wireless ETCs would be appropriate.

According to Mr. Walsh, IVC presently meets the standards in each of the identified Part 735 sections and subsections, except 735.70(b)(1)(G), 735.70(h)(1) and (2), 735.70(i)(1), (2) and (3), 735.70 (f), 735.80, 735.100(b), 735.100(e), 735.120, 735.130(c)(1), 735.140, 735.150(d), 735.160(d), 735.170, 735.180, 735.200, 735.220 and 735.230.

For Part 730, he testified that IVC presently meets the standard in each of the identified sections and subsections, except 730.510, 730.520, 730.535(a), (b) and (c), 730.540, 730.545, 730.115 and portions of 730.500.

Mr. Walsh has committed on behalf of IVC to make changes to its existing practices in order to meet the standards in Sections 735.70(h)(1) and (2), 735.70(i)(1), (2) and (3), 735.70 (f), 735.80, 735.100(b), 735.100(e), 735.120, 735.130(c)(1), 735.140, 735.170, 735.200, 735.220, 735.230 and 730.520.

With respect to 735.80, Deferred Payment Agreements will be offered to subscribers with the additional requirement that the subscriber's rate plan be changed to an IVC ILEC-Equivalent Plan during the agreement period. The change in rate plan designation is necessary to limit the customer's exposure to additional charges from roaming and toll while retiring the delinquent amount.

With respect to 735.130(c)(1), IVC is willing to make the necessary changes to meet this requirement. IVC currently provides service to a class of credit customer that does not require a deposit but is a borderline credit risk. For this class of customer, IVC allows the customer to enjoy the wireless service offering selected; however, if payment is not made on or before the due date, the service is disconnected the following workday. IVC is willing to automatically change the subscriber to the IVC ILEC-equivalent rate plan at the time of non-payment, and mail or deliver the written notice of discontinuance following the procedures in Section 735.130(c)(1).

With respect to 735.140, IVC would provide residential service in a medical context if it becomes the only ETC in a service area, provided that IVC would offer such subject to the additional requirement that the subscriber's rate plan be changed to an IVC ILEC-Equivalent Plan during the period of such service.

With respect to Section 735.200, complaints for wireless carriers are currently handled before the FCC and governed by its provisions. IVC does not have a problem following the procedures set forth in this code section to the extent that the matter underlying the complaint is not a matter which has been pre-empted by the FCC and to the extent that any proposed resolution would not require IVC to violate any applicable term or provision of its FCC license, the Communications Act of 1934, as amended, or any FCC rule and regulation. IVC draft order at 55.

With respect to Sections 735.70(b)(1)(G), 735.150(d), 735.160(d), 735.180, 730.510, 730.535(a), (b) and (c), 730.540, 730.545, 730.115, 730.405, 730.410, 730.415, 730.420, 730.425, 730.430, 730.435, 730.440, 730.445, 730.450 and 730.500, Mr. Walsh indicated why, in his opinion, the standard was either inapplicable to IVC and other wireless carriers or why the standard should not be imposed on IVC.

Specifically, IVC does not believe the portions of subsection 735.70(b)(1)(G) regarding collect calls and/or third party calls can be applied to IVC's situation because those types of calls are not handled by IVC. Rather, they are automatically outsourced to a third-party service provider that allows those type of calls to be debited to the customers credit card. Section 735.70(b)(1)(G) applies only if the carrier has assumed responsibility of collection for toll calls. For most of its calling plans, IVC offers bundled toll at no extra charge such that customers will not likely be making collect or third party such calls. As a result, IVC has not assumed the responsibility of collection for such and third party calls. IVC draft order at 55.

With respect to Sections 735.150(d) and 735.160(d), IVC states that it does have reasonable NSF and late payment charges, but they have not been approved by the ICC as part of a tariff because IVC does not file tariffs.

With respect to Section 735.180, IVC's initial position was that the Commission should not impose compliance with this rule on IVC as a condition of granting ETC designation. IVC represents that wireless carriers do not publish telephone directories.